

AMENDED IN ASSEMBLY APRIL 7, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 323**

**Introduced by Assembly Member Baca**  
(Coauthors: Senators ~~Kopp~~ Johannessen, Kopp, and Monteith)

February 14, 1997

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~~An act to add Section 1520.66 to the Health and Safety Code, An act to amend Sections 1524.5 and 1538 of, and to add Sections 1520.66 and 1538.7 to, the Health and Safety Code, relating to community care facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 323, as amended, Baca. Community care facilities: group homes.

Existing law provides for the licensure and regulation of community care facilities, including group homes, by the State Department of Social Services. *Violation of these provisions is subject to criminal sanction.* Existing law requires the Director of Social Services to deny an application for a new residential care facility license if the director determines the location is in such proximity to an existing residential care facility as would result in overconcentration.

This bill would additionally require the director to, as a condition of the licensure of a group home, *as defined*, to notify the appropriate police department of the *group home's* proposed location, and to deny licensure if recommended by the police department. It would also require the director to

conduct a detailed background check of a person applying for a group home license, including contacting the police departments in the locations of any previous group homes operated by the applicant, and establish a limit on the number of group homes in each city or county based on the ~~size of the city or county's~~ population.

The bill would require the director to establish a process by which the police department where a group home is located may be reimbursed by a group home for ~~the~~ any costs incurred for excessive calls to the police department regarding the group home.

*Existing law requires community care facilities with 6 or fewer residents, except certain family homes, to establish an approved procedure for immediate response to incidents and complaints.*

*This bill would provide that a group home of any size must also comply with this requirement.*

*Existing law provides that any person may request the inspection of a community care facility by notifying the department of an alleged violation of the law regulating community care facilities.*

*This bill would require the department, on or before July 1, 1998, to develop a plan for the creation of a statewide toll-free "800" number that will allow callers to access the appropriate field office of the department in order to notify the department of an alleged violation by a group home operator of the laws regulating community care facilities.*

*This bill would require the owner or licensee of a group home to notify residents in the neighborhood where the facility is located of the response procedure. This bill would further require the owner or licensee of a group home to notify residents in the neighborhood where the facility is located of their right to request an inspection of the facility if they suspect the law has been violated. By changing a definition of a crime these requirements would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*



*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1520.66 is added to the Health  
2 and Safety Code, immediately after Section 1520.65, to  
3 read:

4 1520.66. (a) In addition to any other requirements of  
5 this ~~chapter,~~*the chapter, the* director shall approve an  
6 application for licensure of a group home, only after the  
7 following conditions have been satisfied:

8 (1) The police department of the proposed area where  
9 the group home is to be located ~~shall be~~ *has been* notified  
10 of the proposed location of the group home. The police  
11 department may conduct research into the proposed  
12 location regarding the existing problems in the location  
13 including the number of calls for police service and  
14 incident reports. The police department may  
15 recommend that the license be denied if it conducts this  
16 research and determines that there is a high rate of  
17 existing crime in the proposed area. The director shall  
18 deny a license if the police department recommends  
19 denial *based on the police department's determination*  
20 *that the facility will constitute a direct threat to the health*  
21 *or safety of prospective residents of the facility, or to the*  
22 *public, or that the operation of the facility will result in*  
23 *substantial damage to the property of others.*

24 ~~(2) The director shall conduct a detailed background~~

25 (2) *In addition to fulfilling the other requirements of*  
26 *this chapter, the director has conducted a detailed*  
27 *background check on applicants any applicant* for a  
28 group home license, including contacting the police  
29 departments of any area where the applicant has had any  
30 other group home for information on the number of calls  
31 to the police department and incident reports at the  
32 other locations. If this investigation reveals a high number  
33 of calls to the police departments where the other group

1 homes were located, the director shall require the  
2 applicant to provide the justification for the high number  
3 of problems. If the director determines that these  
4 problems may reoccur at the proposed new group home,  
5 the license shall be denied.

6 (3) ~~The~~ *In addition to the requirements of Section*  
7 *1520.5, the* director shall establish a limit on the number  
8 of group homes in each city, county, or city and county,  
9 based on the population of the city or county. An  
10 application for licensure shall be denied if the proposed  
11 location already has reached its limit of group homes.

12 (b) ~~The~~ *Notwithstanding paragraph (3) of subdivision*  
13 *(a) of Section 1523.1, the* director shall establish a process  
14 with each police department under which the police  
15 department of each city, county, or city and county,  
16 where a group home is located may be reimbursed by the  
17 group home for costs incurred by the department for  
18 responding to the excessive calls at the group home. The  
19 director shall adopt regulations that determine the  
20 number of calls to the police department that constitute  
21 an excessive number and the method of calculation of the  
22 costs incurred.

23 (c) *For purposes of this section, "group home" means*  
24 *any facility of any capacity which provides 24-hour*  
25 *nonmedical care and supervision to children in a*  
26 *structured environment with such services provided at*  
27 *least in part by staff employed by the licensee.*

28 (d) *This section shall not apply to family homes*  
29 *certified by foster family agencies, foster family homes,*  
30 *and small family homes. It is not the intent of the*  
31 *Legislature that this section be applied in a manner that*  
32 *creates a discriminatory effect on the disabled. It is the*  
33 *intent of the Legislature in enacting this section to*  
34 *prevent the licensing of facilities that, based on a history*  
35 *of prior incidents, will constitute a direct threat to the*  
36 *health and safety of prospective residents, or to the*  
37 *public, or will result in substantial damage to the property*  
38 *of others.*

39 SEC. 2. *Section 1524.5 of the Health and Safety Code*  
40 *is amended to read:*

1 1524.5. (a) In addition to any other requirements of  
 2 this chapter, any community care facility providing  
 3 residential care for six or fewer persons, *or any group*  
 4 *home providing care for any number of persons*, except  
 5 family homes certified by foster family agencies, foster  
 6 family homes, and small family homes, shall provide a  
 7 procedure approved by the licensing agency for  
 8 immediate response to incidents and complaints. This  
 9 procedure shall include a method of assuring that the  
 10 owner, licensee, or person designated by the owner or  
 11 licensee is notified of the incident, that the owner,  
 12 licensee, or person designated by the owner or licensee  
 13 has personally investigated the matter, and that the  
 14 person making the complaint or reporting the incident  
 15 has received a written response of action taken or a  
 16 reason why no action needs to be taken.

17 (b) In order to assure the opportunity for complaints  
 18 to be made directly to the owner, licensee, or person  
 19 designated by the owner or licensee, and to provide the  
 20 opportunity for the owner, licensee, or person designated  
 21 by the owner or licensee to meet residents and learn of  
 22 problems in the neighborhood, any facility, except family  
 23 homes certified by foster family agencies, foster family  
 24 homes, and small family homes, shall establish a fixed time  
 25 on a weekly basis when the owner, licensee, or person  
 26 designated by the owner or licensee will be present.

27 (c) Facilities shall establish procedures to comply with  
 28 the requirements of this section on or before July 1, 1996.

29 (d) *For purposes of this section, "group home" means*  
 30 *any facility of any capacity which provides 24-hour*  
 31 *nonmedical care and supervision to children in a*  
 32 *structured environment with such services provided at*  
 33 *least in part by staff employed by the licensee.*

34 SEC. 3. *Section 1538 of the Health and Safety Code is*  
 35 *amended to read:*

36 1538. (a) Any person may request an inspection of  
 37 any community care facility in accordance with the  
 38 provisions of this chapter by transmitting to the state  
 39 department notice of an alleged violation of applicable  
 40 requirements prescribed by statutes or regulations of this

1 state, including, but not limited to, a denial of access of  
2 any person authorized to enter the facility pursuant to  
3 Section 9701 of the Welfare and Institutions Code. A  
4 complaint may be made either orally or in writing.

5 (b) The substance of the complaint shall be provided  
6 to the licensee no earlier than at the time of the  
7 inspection. Unless the complainant specifically requests  
8 otherwise, neither the substance of the complaint  
9 provided the licensee nor any copy of the complaint or  
10 any record published, released, or otherwise made  
11 available to the licensee shall disclose the name of any  
12 person mentioned in the complaint except the name of  
13 any duly authorized officer, employee, or agent of the  
14 state department conducting the investigation or  
15 inspection pursuant to this chapter.

16 (c) Upon receipt of a complaint, other than a  
17 complaint alleging denial of a statutory right of access to  
18 a community care facility, the state department shall  
19 make a preliminary review and, unless the state  
20 department determines that the complaint is willfully  
21 intended to harass a licensee or is without any reasonable  
22 basis, it shall make an onsite inspection within 10 days  
23 after receiving the complaint, except where a visit would  
24 adversely affect the licensing investigation or the  
25 investigation of other agencies. In either event, the  
26 complainant shall be promptly informed of the state  
27 department's proposed course of action.

28 If the department determines that the complaint is  
29 intended to harass, is without a reasonable basis, or, after  
30 a site inspection, is unfounded, then the complaint and  
31 any documents related to it shall be marked confidential  
32 and shall not be disclosed to the public. If the complaint  
33 investigation included a site visit, the licensee shall be  
34 notified in writing within 30 days of the dismissal that the  
35 complaint has been dismissed.

36 (d) Upon receipt of a complaint alleging denial of a  
37 statutory right of access to a community care facility, the  
38 state department shall review the complaint. The  
39 complainant shall be notified promptly of the state  
40 department's proposed course of action.

1 (e) On or before July 1, 1998, the department shall  
2 develop a plan for creating a statewide toll-free “800”  
3 number, that will provide free public telephone access to  
4 the appropriate field office of the department, based on  
5 the caller’s location, to allow the caller to request an  
6 inspection of any group home, pursuant to this section.  
7 The department shall submit the plan to the Legislature  
8 on or before July 1, 1998, along with an estimated budget,  
9 and a description of any appropriation or legislation that  
10 would be required to effectuate the plan. Upon the  
11 implementation of a statewide toll-free “800” number,  
12 the notice to neighborhood residents required pursuant  
13 to Section 1538.7 shall include the statewide toll-free  
14 “800” number.

15 (f) For purposes of this section, “group home” means  
16 any facility of any capacity which provides 24-hour  
17 nonmedical care and supervision to children in a  
18 structured environment with such services provided at  
19 least in part by staff employed by the licensee.

20 SEC. 4. Section 1538.7 is added to the Health and  
21 Safety Code, to read:

22 1538.7. (a) The owner or licensee of a group home  
23 providing care to any number of persons shall provide  
24 notice, in compliance with the requirements of  
25 subdivision (b), of both of the following:

26 (1) The procedure approved by the licensing agency  
27 for immediate response to incidents and complaints, in  
28 accordance with the provisions of Section 1524.5.

29 (2) The right of any person to request an inspection of  
30 the group home if a violation of the law regulating  
31 community care facilities is alleged, in accordance with  
32 the provisions of Section 1538.

33 (b) The notice requirement of subdivision (a) is  
34 fulfilled if, and only if, notice is provided to every  
35 residence within a five-block radius of the group home.  
36 For purposes of this section, “notice” means that written  
37 information is mailed to the last known address of the  
38 owner of the residence or that written information is  
39 mailed or otherwise distributed (for example, by  
40 hand-delivered leaflet) to the residence itself.

1 (c) For purposes of this section, “group home” means  
2 any facility of any capacity which provides 24-hour  
3 nonmedical care and supervision to children in a  
4 structured environment with such services provided at  
5 least in part by staff employed by the licensee.

6 SEC. 5. No reimbursement is required by this act  
7 pursuant to Section 6 of Article XIII B of the California  
8 Constitution because the only costs that may be incurred  
9 by a local agency or school district will be incurred  
10 because this act creates a new crime or infraction,  
11 eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section  
13 17556 of the Government Code, or changes the definition  
14 of a crime within the meaning of Section 6 of Article  
15 XIII B of the California Constitution.

16 Notwithstanding Section 17580 of the Government  
17 Code, unless otherwise specified, the provisions of this act  
18 shall become operative on the same date that the act  
19 takes effect pursuant to the California Constitution.

